

## REMARKS

This Response is submitted in reply to the Office Action dated October 18, 2007. claims 1, 11, 21, 22, 23, 27, 31, 33, 35, 44, 47, 52, and 58 have been amended. No new matter has been added by such amendments. Please charge Deposit Account No. 02-1818 for all payments due in connection with this Response.

The Office Action rejected claims 1 to 10, 21, 23 to 26, and 31 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,931,467 to Kamille in view of U.S. Patent No. 6,217,448 to Olsen.

Kamille discloses a lottery type game including a plurality of playing spots or areas which are each initially masked in Fig. 7C. (Col. 5, lines 19 to 29.) The game starts by the player selecting one spot or area. The game includes a number of starting arrows to indicate to the player a plurality of places to begin game play. The player picks one of these starting spots. The selected spot is revealed to uncover either a directional symbol, a win symbol with an associated award, or a lose symbol. (Col. 5, lines 61 to 67.) If a directional symbol is revealed, taking the form of an arrow or pointer, the player is directed to select another specific spot or area with their next selection. The player's next selection is limited to the specific spot or area which the directional symbol indicates. A directional symbol can be a two-pronged directional arrow that points to two locations or playing areas. If a player obtains a two-pronged direction arrow, the player must decide between the two options provided as to which play area should be selected next. (Col. 9, lines 50 to 66.) If a lose symbol is revealed, the game ends. If a win symbol is revealed, the player is provided the award associated with the win symbol and the game ends.

Olsen discloses a method for providing a bonus jackpot during a bonus mode among a system of linked gaming machines. Certain gaming machines are selected to be eligible for a bonus jackpot payout. The amount of the bonus jackpot payoff that the participating selected gaming machine pays is dependent upon the outcome of the underlying game that is played. (Col. 10, lines 36 to 38.) Each sum paid over the standard payout is subtracted from the bonus pool. When the bonus pool has been depleted, the end of the bonus mode is triggered. Although the end of the bonus mode is triggered, bonus jackpot payouts may continue to be deducted from the bonus pool

until each selected gaming machine has completed play and has been paid any bonus jackpot payout. Such continued bonus jackpot payouts may exceed the bonus pool amount. The reset value of the bonus pool for the next bonus mode is then determined based on the bonus pool amount (even if negative) at the end of the previous bonus mode. Contributions are then entered into the bonus pool beginning at the reset value of the bonus pool. When such bonus pool grows large enough, the next bonus mode is triggered. (Col. 12, lines 25 to 45.)

Amended independent claim 1 is directed to a gaming device including a first round, a plurality of different outcomes of the first round, a second round, at least one winning outcome of the second round, a plurality of different probabilities of providing the winning outcome of the second round, and a display device. The gaming device also includes a processor programmed to operate with the display device to: (a) select and display at least one of the outcomes of the first round, (b) select one of the different probabilities of providing the winning outcome of the second round, wherein the probability of providing the winning outcome of the second round is selected based exclusively on the number of non-selected outcomes of the first round, (c) determine whether to provide a player the winning outcome of the second round, wherein the determination is based on the selected probability of providing the winning outcome of the second round, and (d) display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round wherein the award is determined independent of any base game award.

Page 6 of the Office Action stated that Kamille does not disclose:

a. A determination of whether to provide the player the winning outcome of the second round occurs, wherein the determination is based exclusively on the number of non-selected outcomes of the second round...

Page 6 of the Office Action further stated that Olsen discloses:

a. A determination of whether to provide the player the (winning or positive) outcome of the second round occurs, wherein the determination is based exclusively on the number of non-selected (winning or positive) outcomes of the first round, which the examiner takes it to mean that the next bonus round will offer winnings based on the amount left on the bonus pool after each round ends and continue to do dependent on the pool not having any winnings left...

The Office Action concluded that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kamille with the continuing bonus round feature of Olsen to provide a continuous bonus game to lengthen the bonus game and increase player's enthusiasm during play and encourage further play and to increase a game player's chance at an increased outcome.

Applicant respectfully submits that neither Kamille, Olsen, nor the gaming device resulting from the combination of Kamille in view of Olsen discloses, amongst other elements, a processor programmed to operate with the display device to (d) display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round, wherein the award is determined independent of any base game award. Olsen's bonus game is dependent on the operation of the base game and base game award. In Olsen, once a bonus pool reaches a monetary value, the bonus game period starts. Gaming machines eligible to participate in the bonus game are selected at the time the bonus period starts. The selected gaming machines continue to play the currently active games (e.g., the base games). If a selected gaming machine produces a conventional winning outcome in a base game, the conventional outcome is multiplied by a bonus multiplier to produce a bonus jackpot payoff. The selected gaming machines continue to play the base game until the bonus pool has been depleted.

In Olsen's game, the bonus jackpot payoff is dependent on the base game. The bonus jackpot payoff is a product of a base game winning outcome multiplied by the bonus multiplier. Therefore, Olsen does not disclose a gaming device that displays an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round, wherein the award is determined independent of any base game award. Moreover, it would not have been obvious to one of ordinary skill in the art to modify Kamille and Olsen to result in such a gaming device without reasonably being construed as improper hindsight reconstruction. On the other hand, amended independent claim 1 includes a processor programmed to operate with the display device to (d) display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round wherein the award is determined independent of any base game award. Accordingly, Applicant submits that

amended independent claim 1 is patentably distinguished over Kamille in view of Olsen and is in condition for allowance.

In the Response to Arguments section, paragraphs 10 and 13, the Office Action stated that:

10. Regarding the argument in page 25 of the remarks, "Olsen does not disclose basing the winnings offered in the next bonus round on the amount left on the bonus pool after each round end", the applicant's argument is not in the scope of the claim as written.

13. Regarding the argument in page 26 of the remarks, "Nothing in Olsen appears to indicate that the bonus payout in the next bonus mode is affected by the amount of the bonus pool in the previous bonus mode", the examiner points that it is not in the scope of the claims.

Page 6 of the Office Action stated that Olsen discloses "the next bonus round will offer winnings based on the amount left on the bonus pool after each round ends..." The Office Action relied on this interpretation to show that Olsen discloses the probability of providing the winning outcome of the second round is selected based exclusively on the number of non-selected outcomes of the first round. In response, Applicant argued that Olsen does not disclose basing the winnings offered in the next bonus round on the amount left on the bonus pool after each round ends because after each round ends in Olsen, the bonus pool value is zero. However, regardless of whether or not Olsen discloses that the next bonus round will offer winnings based on the amount left on the bonus pool after each round ends, Olsen does not disclose an award determined independent of any base game award.

In the Response to Arguments section, paragraphs 17 and 18, the Office Action stated that:

17. Regarding the argument in page 27 of the remarks directed to claims 23, 27, 31 and 33, "Kamille, alone, or in combination with Olsen, does not appear to disclose a range of different independently determined values of a first round wherein the greater the indicated value of the first round, the lower the selected probability of obtaining a modifier of a second round", the examiner points to a calculation of a value will always fall within a range of values that the game designer has originally set for the game. All casino games must have by design and regulations a maximum liability disclosure so as to protect the casino from high payouts.

18. Examiner's note: A maximum liability is the largest amount the machine is able to payout at any given point. These large jackpots are very well described in the PAR sheets and game designers must take consideration of these liabilities when designing a game.

Applicant disagrees that these features are well known and submits that the Office Action is taking official notice with respect to the features of a range of different independently determined values of a first round wherein the greater the indicated value of the first round, the lower the selected probability of obtaining a modifier of a second round as in claims 23 and 27 or the higher the selected probability of obtaining a modifier of a second round as in claim 31 and 33. Therefore, if the Office Action continues to maintain this assertion, Applicant respectfully requests that the subsequent Office Action point to these features in the prior art.

In the Response to Arguments section, paragraph 19, the Office Action stated that:

The applicant in page 27 of the remarks mentions deficiencies in Thomas and Joshi yet fails to point out the specific deficiency.

Applicant submits that such deficiencies were discussed in the Response to Office Action dated October 18, 2006 and the Response to Office Action dated June 26, 2007.

Applicant also disagrees with the Office Action's arguments made in paragraphs 11, 12, 14, 15, and 16 in the Response to Arguments that rely on Olsen to disclose regulation of bonus rounds. However, Applicant submits that regardless of whether Olsen discloses regulation of bonus rounds, Olsen does not disclose an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round wherein the award is determined independent of any base game award.

Applicant submits that claims 2 to 10 depend directly or indirectly from amended independent claim 1 and are also allowable for the reasons given with respect to amended independent claim 1 and because of the additional features recited in these claims.

As the gaming devices of amended independent claims 21, 23, and 31 each include, amongst other elements, either (1) display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round

wherein the award is determined independent of any base game award (claim 21) or (2) display the modified value wherein the modified value is determined independent of any base game award (claims 23 and 31) and Kamille in view of Olsen does not disclose either: (1) displaying an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round wherein the award is determined independent of any base game award, or (2) displaying the modified value wherein the modified value is determined independent of any base game award, Applicant respectfully submits that for similar reasons to those described above with respect to amended independent claim 1, the gaming devices of amended independent claims 21, 23, and 31 are also patentably distinguished over Kamille in view of Olsen and are in condition for allowance.

Applicant submits that claims 23 to 26 depend directly or indirectly from amended independent claim 23 and are also allowable for the reasons given with respect to amended independent claim 23 and because of the additional features recited in these claims.

The Office Action also rejected Claims 11 to 20, 22, 27 to 30, 33 to 34 and 44 to 60 under 35 U.S.C. §103(a) as being unpatentable over Kamille in view of U.S. Patent No. 6,190,255 to Thomas et al. ("Thomas") and in further view of Olsen.

The Office Action stated that it would have been obvious to modify Kamille with Thomas in order to provide a secondary or bonus game to encourage further play and to increase a game player's chance at an increased outcome. The Office Action further stated that it would have been obvious to modify Kamille in view of Thomas with Olsen in order to provide a continuous bonus game to lengthen the bonus game and increase player's enthusiasm during play and encourage further play and to increase a game player's chance at an increased outcome.

Applicant submits that regardless of whether or not it would have been obvious to incorporate Kamille with Thomas and Olsen, neither Kamille, Thomas, or Olsen individually, nor the gaming device resulting from the combination of Kamille, Thomas, and Olsen discloses or renders obvious, amongst other elements, either (1) displaying an award based on at least one of the selected outcomes of the first round and any

winning outcome of the second round wherein the award is determined independent of any base game award, (2) displaying the modified value wherein the modified value is determined independent of any base game award, or (3) the modified value determined independent of any base game award.

Moreover, it would not have been obvious to one of ordinary skill in the art to modify Kamille, Thomas, and Olsen to result in such gaming devices without reasonably being construed as improper hindsight reconstruction. On the other hand, the gaming devices of amended independent claims 11, 22, 27, 33, 44, 47, 52, and 58 each include, amongst other elements, either (1) display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round wherein the award is determined independent of any base game award (claims 11 and 22), (2) display the modified value wherein the modified value is determined independent of any base game award (claims 27 and 33), or (3) the modified value is determined independent of any base game award (claims 44, 47, 52, and 58). Accordingly, for these reasons and the reasons provided with respect to amended independent claim 1, Applicant respectfully submits that amended independent claims 11, 22, 27, 33, 44, 47, 52, and 58 are patentably distinguished over Kamille in view of Thomas and further in view of Olsen and are in condition for allowance.

Claims 12 to 20, 28 to 30, 34, 45 to 46, 48 to 51, 53 to 57, and 59 to 60 depend directly or indirectly from amended independent claims 11, 22, 27, 33, 44, 47, 52, and 58 respectively and are allowable for the reasons given with respect to amended independent claims 11, 22, 27, 33, 44, 47, 52, and 58 and because of the additional features recited in these claims.

The Office Action rejected claim 35 under 35 U.S.C. §103(a) as being unpatentable over Kamille in view of U.S. Patent No. 6,485,367 to Joshi and in further view of Olsen.

The Office Action stated that it would have been obvious to modify Kamille with Joshi in order to provide game players a chance at a bigger payout outcome, which will attract frequent play by enhancing the entertainment value and excitement associated with the game. The Office Action further stated that it would have been obvious to

modify Kamille in view of Joshi with Olsen in order to provide a continuous bonus game to lengthen the bonus game and increase player's enthusiasm during play and encourage further play and to increase a game player's chance at an increased outcome.

Applicant submits that regardless of whether or not it would have been obvious to incorporate Kamille with Joshi and Olsen, neither Kamille, Joshi, or Olsen individually, nor the gaming device resulting from the combination of Kamille, Joshi, and Olsen discloses or renders obvious, amongst other elements, a processor programmed to operate with the display device to display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round wherein the award is determined independent of any base game award.

Moreover, it would not have been obvious to one of ordinary skill in the art to modify Kamille, Joshi, and Olsen to result in such a gaming device without reasonably being construed as improper hindsight reconstruction. On the other hand, the gaming device of amended independent claim 35 includes, amongst other elements, a processor programmed to operate with the display device to display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round wherein the award is determined independent of any base game award. Accordingly, for these reasons and the reasons provided with respect to amended independent claim 1, Applicant respectfully submits that amended independent claim 35 is patentably distinguished over Kamille in view of Joshi and further in view of Olsen and is in condition for allowance.

In the Response to Arguments section, paragraph 20, the Office Action stated that:

The examiner concludes after answering the previous arguments presented, that Kamille, Olsen, Thomas and Joshi all cover all of the claimed limitation of the present application, and that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate these features in any number of predictable outcomes.

Applicant disagrees with the Office Action's assertion that it would have been obvious to combine Kamille, Olsen, Thomas, and Joshi to incorporate their features in any number



of predictable outcomes. However, regardless of whether it would have been obvious to combine Kamille, Olsen, Thomas, and Joshi to include their features in any number of predictable outcomes, Kamille, Olsen, Thomas, and Joshi do not disclose, amongst other features, a processor programmed to operate with the display device to display an award based on at least one of the selected outcomes of the first round and any winning outcome of the second round wherein the award is determined independent of any base game award.

The Office Action rejected claims 37 to 38, 40, and 41 under 35 U.S.C. §103(a) as being unpatentable over Kamille in view of U.S. Patent No. 5,931,467 to Vancura.

Claims 37 to 38, 40, and 41 were cancelled without prejudice or disclaimer in the Response to Office Action dated June 26, 2007. Applicant requests that this rejection be withdrawn.

The Office Action did not indicate whether claim 32 is rejected or allowed. Applicant requests that the Office Action indicate the status of claim 32 in the subsequent Office Action.

An earnest endeavor has been made to place this application in condition for formal allowance and is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY 

Adam H. Masia  
Reg. No. 35,602  
Customer No. 29159

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